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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

CATALINA ASTORGA MONTOYA,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

Case No. 1:20-cv-00152-BAK

STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT; ORDER

(ECF No. 22)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of SEVEN THOUSAND FOUR-HUNDRED TWENTY-THREE DOLLARS and 32/100 (\$7,423.32) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and cost in the amount of zero dollars (\$0.00) under 28 U.S.C. §1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the

1 Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine
2 whether they are subject to any offset.

3 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
4 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
5 and costs to be made directly to Counsel, pursuant to the assignment executed by Plaintiff. Any
6 payments made shall be delivered to Plaintiff's counsel, Jonathan O. Peña.

7 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
8 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
9 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any
10 and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA
11 attorney fees in connection with this action.

12 This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social
13 Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the
14 EAJA.

15 Respectfully submitted,

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17 Dated: February 11, 2022

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/s/ Jonathan O. Peña
19 JONATHAN O. PEÑA
20 Attorney for Plaintiff

21 Dated: February 11, 2022

22 PHILLIP A. TALBERT
United States Attorney
PETER K. THOMPSON
Acting Regional Chief Counsel, Region IX
Social Security Administration

23 By: * Daniel P. Talbert

24 Daniel P. Talbert
Special Assistant U.S. Attorney
25 Attorneys for Defendant
26 (*Permission to use electronic signature
obtained via email on February 11, 2022).
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ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (ECF No. 22)), IT IS ORDERED that fees and expenses in the amount of SEVEN THOUSAND FOUR-HUNDRED TWENTY-THREE DOLLARS and 32/100 (\$7,423.32) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **February 15, 2022**

/S/ Eric P. Grujic

UNITED STATES MAGISTRATE JUDGE